

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RUDY VEGA, et al,
Plaintiff,

VS.

JOHN DOE, et al,
Defendants.

No. C 05-5187 JSW (PR)

ORDER OF TRANSFER

(Docket No. 4)

Plaintiff is a state prisoner currently incarcerated at Kern Valley State Prison located in Delano, California, within the venue of the United States District Court for the Eastern District of California. He filed this civil rights action in the United States District Court for the Northern District of California on December 14, 2005, complaining of violations of his civil rights at that facility. On January 6, 2006, Plaintiff filed a motion seeking to proceed in forma pauperis (docket no. 4).

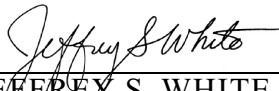
Plaintiff's complaint was not filed in the proper district. When jurisdiction is not founded solely on diversity, venue is proper in the district in which (1) any defendant resides, if all of the defendants reside in the same state, (2) the district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought. 28 U.S.C. § 1391(b). Where a case is filed in the wrong venue, the district court has the discretion either to dismiss the case or transfer it to the proper federal court "in the interest of justice." 28 U.S.C. § 1406(a). Venue may be raised by the court sua sponte where the defendant has not yet filed a responsive

1 pleading and the time for doing so has not run. *Costlow v. Weeks*, 790 F.2d 1486, 1488
2 (9th Cir. 1986).

3 It is apparent from this Court's review of the complaint that Plaintiff alleges
4 events occurring within the venue of the Eastern District of California. *See* 28 U.S.C. §
5 84. Therefore, the Court will transfer this action to the United States District Court for
6 the Eastern District of California. In light of the transfer, Plaintiff's motion to proceed in
7 forma pauperis will not be resolved (docket no. 4). Accordingly, IT IS ORDERED in
8 the interest of justice, and pursuant to 28 U.S.C. § 1406(a), that this action be
9 TRANSFERRED to the United States District Court for the Eastern District of
10 California. The Clerk of the Court shall transfer this matter forthwith.

11 IT IS SO ORDERED.

12 DATED: March 3, 2006

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15 JEFFREY S. WHITE
16 United States District Judge
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